Helpdesk Research Report: Political Economy and Governance in the Democratic Republic of Congo (DRC)
Date: 09.12.2010

Query: Please provide an overview of the recent academic, policy and practitioner literature on governance and political economy in the Democratic Republic of Congo.

Enquirer: DFID DRC

Contents

1.   **Overview**
2.   **General literature**
3.   **Decentralisation and local governance**
4.   **Justice and rule of law**
5.   **Natural resource governance**
6.   **Livelihoods and business environment**
7.   **Citizenship and social capital**
8.   **Additional Information**

1.	Overview

This report is based on some of the recent literature on governance and political economy in the Democratic Republic of Congo (DRC). It should be read in conjunction with the helpdesk research report on 'New Literature on Conflict in the DRC' (http://www.gsdrc.org/docs/open/HD721.pdf), which includes a section on political issues.

The following sections outline key governance and political economy issues discussed in the literature included in this report:

Political systems

Despite multi-party elections in 2006, the political regime in the DRC is considered to have authoritarian characteristics. A recent report published by Freedom House states that 'the newly elected government is brutally restricting democratic space' (Afoaku, 2010, p. 5). Matti argues that the Kabila regime is neither authoritarian nor democratic, but is rather a hybrid regime. The presence of competition and intensive campaigning by political parties for the 2006 elections was a strong indicator of democratic tendencies. At the same time, however, the regime has engaged in direct marginalisation and repression of opposition figures since the elections (Matti, 2010). The opposition is fragmented and weak in capacity, which has made Parliament ineffective in challenging the ruling coalition (Afoaku, 2010). In addition, the regime has sought to undermine the independence of the media and the judiciary (Afoaku, 2010; Matti, 2010).

The persistence of conflict has also had an impact on electoral politics in the country. The longer the conflict persists, the more ethnic considerations distort how people vote and which politicians they support. This undermines governance by reinforcing a politics of identity over ideas. At the same time, if democratically elected officials adopt divisive ethnic politics, this could fuel further conflict. 'Ending

conflict and improving governance are two sides of the same coin in the DRC: one is unlikely to be achieved in a meaningful way without the other' (Smith, 2009, p. 11).

State-society relations

State-society relations are tenuous in the DRC. The tax relationship between citizens and the state, in which taxes act as investment in state services, is barely functional. In addition, most fee collection by government agents occurs informally and illegally, with little public awareness of what fees are legal (Afoaku, 2010). There have also been reports in some rural areas of the country of the 'personalisation of the state', whereby political support is based on personalities and individual favours instead of on policies. This distorts the 'accountability link' between the leaders and the public (Smith, 2009).

In the province South Kivu, more than half of the 2009 provincial budget was dedicated to government salaries instead of services or other investments in development. It is often argued though that corruption in the DRC is fuelled by insufficient government salaries. However, if politicians do not have the budget to deliver any benefits to the population, they may consider their time in office to be limited and adopt a 'take what you' can mentality (Smith, 2009).

Civil society has grown in the DRC; however it has yet to become a genuine political force that can play a meaningful role in improving political transparency and countering corruption (Trefon, 2010). Since the 2006 elections, civil society has also been undermined through the politicisation of many groups; in-fighting; lack of resources and capacity; and continued repression and abuse by the government of human rights defenders (Afoaku, 2010; Davis, 2009). The Kabila regime has also attempted to curb the independence of the media (Matti, 2010).

Smith argues that donors need to invest more in the process of governance, with a focus on building positive state-citizen relations at all levels. Support to formal democratic institutions and processes at the formal level are not sufficient. Citizens also need to be made aware of their own power and to take the initiative to hold public and elected officials to account. Discussion groups in rural areas of the DRC have revealed a 'general lack of understanding of how the democratisation process changed the old relationship between the state and the citizen' (Smith, 2009, p. 20).

Decentralisation and local governance

Two key policies provide for decentralisation in the DRC: the restructuring of the territory and the process of holding elections. The 2006 Constitution redistributed the territory into 26 provinces. The most important provision is that tax collection is to be carried out at the source - by the provinces instead of the state. The implementation of both policies however has been weak. There is little progress in the implementation of the new provinces on the ground and this remains unequal. In addition, as of 2010, local elections continue to be postponed (Barrios and Ahamed, 2010).

There are some fears that decentralisation could spark conflict as boundaries are re-drawn around resource-rich areas and across ethnic groupings: 'There may be an inherent trade-off between the potentially destabilising effects of rushing decentralisation through too soon versus the risk of aggravating tensions between the centre and the provinces by not doing it soon enough' (Smith, 2009, p. 13). Barrios and Ahamed emphasise that decentralisation in the DRC is 'foreseen as a technical tool to foster democracy functioning, and not as an element of sub-national community representation and policy making. Indeed, identity clusters are rather thwarted. […] In this sense, there is clearly an emphasis in state-building but keeping one state with administrative divisions rather than a federal union of different identity and territorial units' (Barrios and Ahamed, 2010, p. 11).

Justice and rule of law

The Congolese security system is currently not only incapable of defending the state and the state's authority, but it also poses a threat to the population as a whole. The Transitional Government (2003-2006) failed to address justice or human rights issues, which resulted in a system of entrenched impunity.

Access to justice remains extremely limited outside of Kinshasa, due to underfunding and understaffing. The system is unable to deliver day-to-day rule of law for the population, let alone tackle serious crimes and abuses during the wars, including rape and sexual violence (Afoaku, 2010; Davis, 2009). There is thus little redress for victims of violations (Afoaku, 2010). Further, impunity for crimes of sexual violence is likely to hinder the participation of women in a democracy, if their security is constantly under threat (Davis, 2009).

The Kabila regime has indirectly undermined the independence of the judiciary by depriving it of funding (Matti, 2010). Congolese judges are subject to undue influence from government officials and powerful individuals; and there is frequent political interference with judicial processes (Afoaku, 2010; Davis, 2009).

Democratic oversight of the police also remains a big challenge. This is in part due to resistance from the police hierarchies that are unaccustomed to operating within a democratic environment; and in part due to the failure of parliament to fully engage in oversight. A lack of clear command and control enables senior officers in the army and police to engage in corruption (Davis, 2009).

Weak state apparatus has meant that 'rule of law' has not been applied consistently at the local level despite the constitution and new legislation (Jackson, 2007). Corruption is endemic at all levels of society in the DRC (Trefon, 2010; Afoaku, 2010). Insufficient and infrequent payment of salaries fuel petty corruption among civil servants, police and soldiers (Afoaku, 2010; Vinck and Pham, 2008). Little progress has been made to combat corruption, although some level-level initiatives have reported success.

Natural resource governance

Corruption, mismanagement, insufficient institutional capacity and fundamental governance deficiencies have contributed to poor results in the lucrative mining and forestry sectors in the DRC (World Bank, 2008; Trefon, 2010). The local population in Katanga – the DRC's key copper and cobalt producing region – for example, have yet to benefit from the region's resources (Afoaku, 2010). There is currently a large gap between what should be paid in mining and forestry tax revenue and what is actually recorded (World Bank, 2008), due in large part to a lack of transparency and accountability and fraudulent practices by companies and government agencies (World Bank, 2008; Trefon, 2010). Environmental governance thus cannot be seen solely as a technical issue as it is also a political and social challenge (Trefon, 2010).

Despite the adopton of a new Mine Law and regulations (2002), which are consistent with international best practice, the government has failed to effectively apply the law (World Bank, 2008). Some argue that the institutional preconditions required to implement the transparency and governance provisions of the mining code currently do not exist. These include appropriate administrative structures, central government institutions capable of oversight; well-trained (and well-paid) staff, and inter-governmental/ institutional cooperation (Guenther, 2008).

Recent mining deals between the DRC and Chinese enterprises have the potential to contribute to economic growth. However, there are concerns about the lack of transparency and available information about these agreements (Matti, 2010; World Bank, 2008).

Livelihoods and business environment

Food insecurity in the protracted crisis situation of eastern DRC needs to be tackled not only through support for short term consumption, but also through a political economy approach that tackles structural causes, such as depleted asset stocks, and examines institutional contexts. Institutional settings play an important role as they mediate access to land and markets, which determine households' livelihood opportunities and food security (Lecoutere et al, 2009). While property rights are protected by law in the DRC, provisions are regularly violated by state and private actors (Afoaku, 2010). This can constrain livelihoods and business opportunities.

A recent survey of business people in Bukavu in the east and Lubumbashi in the south found that while business people cited security and violent conflict as factors undermining economic activity, these were not seen as the most important issues. Instead, problems of unreliable electricity supply, high taxes, and other bureaucratic and logistical hurdles are considered as the key challenges. High taxes in Lubumbashi is seen a problem of corruption; whereas in Bukavu, the issue is intertwined with the security situation and likely relates to unofficial taxes levied by armed groups and corrupt officials. Nonetheless, in both cities, the majority of business people surveyed believed that the general business climate would improve in the coming year (Gilpin and Downie, 2009).

Citizenship and social capital

The denial of nationality and of citizenship rights to people of Rwandan/Burundese heritage (members of the Hutu and Tutsi ethnic groups) is an important issue in the DRC. Although a new law on nationality was adopted in 2004 that provides for nationality by origin and by acquisition, the law is poorly implemented. It also leaves much open and uncertain; and allows for loopholes and continuing possibilities of legal exclusion. Jackson emphasises that it is important that gaining Congolese nationality also comes with an enforceable and long-term right to land. It is also important to look beyond legal reforms and to try to reverse deeply held political narratives of belonging and exclusion, indigenousness and foreignness, which remains a potent area for political manipulation (Jackson, 2007).

The (re)formation of social capital is also a challenge in the DRC. Patrimonialism, political conflicts and economic instability in the region has prevented an institutional system that would provide conditions of predictability and security that would allow Congolese people to trust each other. Instead, the decline of economic, political and social infrastructure has resulted in distrust. A recent study on relations among traders in Katanga finds that social proximity does not exclude suspicion; nor does social distance necessarily prevent trust. In terms of conducting business, the study finds that expectations of trust are most strong with close relatives, then non-relatives, and lastly, distant relatives/kin groups.

2.	General literature

Afoaku, O., 2010, 'Democratic Republic of Congo', Countries at the Crossroads 2010, Freedom House, Washington, DC
http://www.freedomhouse.org/uploads/ccr/country-7954-9.pdf

This report provides an overview of governance and political economy in the DRC. It states: 'Now in the third year of its renewed experiment with multiparty governance, the future of the Congolese state remains precarious. The second war, which included numerous regional states and irregular armed groups, has largely subsided, but parts of the country, especially in the east, remains unstable and insecure. Nevertheless, most of the country is calm and relatively stable' (p. 3). Specific areas covered in the report are:

Accountability and public voice
  ➢ Since the 2006 elections, President Kabila and his supporters have continued to subordinate democracy in order to maintain order and stability: 'the newly elected government is brutally restricting democratic space' (p. 5)
  ➢ Local elections scheduled for 2008 have not been held
  ➢ The government seems uncommitted to fulfilling the public's wish for a government of national unity
  ➢ The opposition suffers from fragmentation and weak capacity, which has made Parliament ineffective in challenging the ruling coalition
  ➢ Civil society has grown due to donor pressure and the limited capacity of government to address governance challenges. There are several limitations, however: many groups have become politicised; rights activists are at high risk of arrest, threats and attacks; and most media outlets are either owned or funded by politicians, who use them as a tool to advance personal agendas

<u>Civil liberties</u>
- ➢ Abuses by non-state actors are still prevalent
- ➢ Even in non-conflict zones, poor economic conditions foster crime and instability
- ➢ There is little redress for victims of violations
- ➢ Women continue to be discriminated against in many spheres of society despite constitutional provisions mandating the elimination of discrimination
- ➢ While there is a strong public identification with Congo as a nation-state, ethnicity has been a prominent factor in politics and the formation of armed groups

<u>Rule of law</u>
- ➢ Customary law is in force in many parts of the country
- ➢ Congolese judges are subject to undue influence from government officials and powerful individuals
- ➢ Access to justice remains extremely limited outside of Kinshasa, due to underfunding and understaffing
- ➢ Civilian control over the military remains very weak
- ➢ Although property rights are protected by law, provisions are regularly violated by state and private actors. Property rights are especially unstable in the east, where land conflicts from forced displacement and ongoing plundering and land seizures by armed groups and bandits are prevalent

<u>Anticorruption and transparency</u>
- ➢ The legacy of power and corruption as synonymous is difficult to overcome; corruption is endemic at all levels of society
- ➢ The Congolese believe corruption is rampant in the country; Transparency International's 2009 Corruptions Perceptions Index ranked the DRC 162 out of 190 countries
- ➢ Insufficient and infrequent payment of salaries fuel petty corruption among civil servants, police and soldiers; bribes are considered a part of everyday life by the population
- ➢ Little progress has been made to combat corruption, although some level-level initiatives have reported success
- ➢ The absence of strong regulation and a reliable system of oversight has resulted in the continuance of individual buyers and companies involved in the mineral trade enriching warring parties.
- ➢ The local population in Katanga, the DRC's key copper and cobalt producing region, have yet to benefit from the region's resources
- ➢ The tax relationship between citizens and the state, in which taxes act as investment in state services, is barely functional
- ➢ Most fee collection by government agents occurs informally and illegally, with little public awareness of what fees are legal

The report makes the following recommendations (see pp. 18-19):
- ➢ Create an independent media regulation body
- ➢ Prioritise the prosecution of war crimes
- ➢ Adopt a multifaceted strategy to end impunity for crimes of rape and sexual violence that include gender-sensitive educational initiatives, rehabilitation for victims of sexual violence, and a comprehensive protection programme
- ➢ Work to improve the judiciary through additional training and infrastructure and the provision of sufficient salaries
- ➢ Systematically review and strengthen laws, policies and institutions that govern financial payments made by mining corporations to the national government
- ➢ Revise the tax system to diminish incentives for evasion and smuggling

Matti, S. A., 2010, 'The Democratic Republic of the Congo? Corruption, Patronage, and Competitive Authoritarianism in the DRC', Africa Today, vol. 56, no. 4, pp. 42-61
http://muse.jhu.edu/journals/africa_today/summary/v056/56.4.matti.html

This paper argues that the Kabila regime is neither authoritarian nor democratic, but is rather a hybrid regime. Democratic aspects in the country include meaningful opposition to the government in various arenas, including the legislature, media and electoral system. The presence of competition and intensive campaigning by political parties for the 2006 elections was a strong indicator of democratic tendencies. At the same time, the regime has demonstrated authoritarian behaviour through direct marginalisation and repression of opposition figures since the elections; and attempts to directly curb the independence of the media and to indirectly undermine the independence of the judiciary by depriving it of funding.

The paper states that the recent mining deals between the DRC and Chinese enterprises may exacerbate the DRC's authoritarian tendencies. The Chinese government does not require that rules of transparency and good governance are observed in its dealings with other countries; and there have been complaints by Congolese politicians and NGOs operating in the DRC about the lack of transparency and available information about the government's dealings with the Chinese enterprises. Despite the potential for the Congolese government to move in a more authoritarian direction, it may still be able to gain popular support if it is able to produce economic growth through this and other investments.

3.	Decentralisation and local governance

Smith, J., 2009, 'Democratisation and Good Governance in the Democratic Republic of Congo: A Case Study of South Kivu Province' Democratisation Cluster, Initiative for Peacebuilding
http://www.initiativeforpeacebuilding.eu/pdf/Democratisation_and_Good_Governance_in_the_Democratic_Republic_of_Congo.pdf

The political system in the DRC, established by the constitution and subsequent legislation, is a decentralised system comprised of appointed, directly- and indirectly-elected posts. Although, local elections have yet to take place, the 2006-07 presidential, legislative and provincial elections resulted in the election of the governor, vice-governor and the provincial assembly members, who sit at the decentralised provincial level. In addition, senators and national assembly members represent their province or local level constituencies.

The paper highlights some key issues and concerns with decentralisation in the DRC and governance more generally, with particular attention to the South Kivu Province:

The DRC
 ➢ Politicians at both the central and provincial level are distracted by the ongoing conflict in the east, which has resulted in a diversion of valuable attention and resources. In addition, it can potentially be used as an excuse to avoid governance reforms
 ➢ The longer the conflict persists, the more ethnic considerations will distort how people vote and which politicians they support. This will undermine governance by reinforcing a politics of identity over ideas. At the same time, if democratically elected officials adopt divisive ethnic politics, this could fuel further conflict. 'Ending conflict and improving governance are two sides of the same coin in the DRC: one is unlikely to be achieved in a meaningful way without the other' (p. 11).
 ➢ There are fears that decentralisation could spark conflict as boundaries are re-drawn around resource-rich areas and across ethnic groupings: 'There may be an inherent trade-off between the potentially destabilising effects of rushing decentralisation through too soon versus the risk of aggravating tensions between the centre and the provinces by not doing it soon enough' (p. 13).
 ➢ Overlapping responsibilities with ministry staff and a dual chain of command has led in some situations to competition between the civil service and ministerial cabinet and the duplication of efforts

South Kivu
 ➢ There are parts of South Kivu with virtually no state presence at all. In South Kivu and other parts of rural DRC, formal processes of the national and provincial governments do not apply. Instead,

societal practices and coping mechanisms and grass-roots efforts aimed at holding civilian and military leaders to account have emerged. Some have been successful and some unsuccessful

> An important function of effective democratic states – the ability to arbitrate disputes peacefully and impartially – has been replaced with informal grass-roots 'peace committees' that encourage negotiation and dialogue between individuals, communities and authorities
> Local NGOs in South Kivu have complained that more than half of the 2009 provincial budget was dedicated to government salaries instead of development projects or other investments. It is often argued though that corruption in the DRC is fuelled by insufficient government salaries. However, if politicians do not have the budget to deliver any benefits to the population, they may consider their time in office to be limited and adopt a 'take what you' can mentality.
> There were anecdotes from rural areas of the 'personalisation of the state', whereby senior state officials gave 'gifts' to people, who were grateful for such handouts. This results in political support based on personalities and individual favours instead of on policies, and distorts the 'accountability link' between the leaders and the public

The paper emphasises that support to formal democratic institutions and the processes at the formal level have not been sufficient to improve governance. Citizens also need to be made aware of their own power and to take the initiative to hold public and elected officials to account. Discussion groups in rural areas of the DRC have revealed a 'general lack of understanding of how the democratisation process changed the old relationship between the state and the citizen. People seemed to have high hopes in general that 'change' would happen, without any specific understanding of what 'change' meant or their own part in bringing about that change, apart from voting every few years' (p. 20).

The paper recommends that donors need to invest more in the process of governance, with a focus on building positive state-citizen relations at all levels. More needs to be done to ensure that people:

> Understand what good governance means to them
> Are educated on the roles and responsibilities of leaders, citizens and other actors in the democratic state, in particular the formal checks on executive power. The accountability relationship should be strengthened between citizens and the leaders in closest proximity to them
> Believe responsible leadership is possible in the Congo

Barrios, C. and Ahamed, S.A., 2010, 'Democracy Promotion vs. State-building? The Theory and the Practice of Decentralisation in the Democratic Republic of Congo', Draft paper
http://stockholm.sgir.eu/uploads/BarriosAhamedDRAFT_dem&statebuilding.pdf

This paper discusses the provisions made for decentralization in the DRC, the links between democratisation and the state-building, and the current situation in the country. Two key policies provide for decentralisation: the restructuring of the territory and the process of holding elections. The 2006 Constitution redistributed the territory into 26 provinces. The most important provision is that tax collection is to be carried out at the source - by the provinces instead of the state. The implementation of both policies however is 'lagging behind and imply that decentralisation exists in theory but not so much practice' (p. 10). There is little progress in the implementation of the new provinces on the ground and this remains unequal (for example, while North Kivu and South Kivu have functioning provincial assemblies, most new provinces only exist on paper). In addition, as of 2010, local elections continue to be postponed.

The paper notes that decentralisation in the DRC is 'foreseen as a technical tool to foster democracy functioning, and not as an element of sub-national community representation and policy making. Indeed, identity clusters are rather thwarted. […] In this sense, there is clearly an emphasis in state-building but keeping one state with administrative divisions rather than a federal union of different identity and territorial units' (p. 11).

4. Justice and rule of law

Davis, L., 2009, 'Justice-Sensitive Security Reform in the Democratic Republic of Congo', IFP Security Cluster, Initiative for Peacebuilding
http://www.operationspaix.net/IMG/pdf/Justice_Sensitive_Security_System_reform_in_the_DRC-2.pdf

This paper emphasises the importance of adopting a justice-sensitive security reform approach in the DRC. This involves reforming abusive public institutions in the security system by addressing the past record of the institution and holding individual perpetrators to account. This would contribute to changing the culture of normalisation of human rights violations within these institutions and contribute to building confidence in the security sector as a protector of the rights and safety of citizens. An important element of justice-sensitive reform is to increase efforts to transform the relationship between the population and the security system, with particular attention to the relationship between Congolese women and these institutions. This involves engaging the population as a whole in the reform process.

Currently in the DRC, the Congolese security system is not only incapable of defending the state and the state's authority, but it also poses a serious threat to the population as a whole. The Transitional Government (2003-2006) failed to address justice or human rights issues, which resulted in a system of entrenched impunity. In particular, impunity for crimes of sexual violence is likely to hinder the participation of women in a democracy, if their security is constantly under threat. Civil society, which was weakened in the transition, continues to be undermined since the 2006 elections due to its politicisation; a lack of resources and capacity; in-fighting; and continued repression and abuse of human rights defenders. Nonetheless, a campaign led by local and international civil society organisations has succeeded in raising awareness of the extent of rape and sexual violence in the DRC.

The paper highlights key issues within the security system:

The army
  ➢ There is no clarity on the number of armed forces or their identity
  ➢ There is much concern that strengthening parts of the army without addressing the abusive nature of the state will fail to improve the population's security
  ➢ A lack of clear command and control enables senior officers to engage in corruption

The police
  ➢ The presence of widows and orphans on the payroll ('ghosts' of killed police officers) inflate the numbers of a unit and increase the salary allocations pocketed by senior officers. This situation needs to be addressed not only to prevent corruption but in order to properly provide for widows and orphans through a institutionalised social insurance and welfare system
  ➢ Uncertainty remains over the role of the police, its nature, and the different roles that police services and armed forces play in a democracy. Senior police officers still consider their mission as to protect the state from its enemies (internal or external) by any means
  ➢ Democratic oversight remains a big challenge. This is in part due to resistance from the police hierarchies that are unaccustomed to operating within a democratic environment; and in part due to the failure of parliament to fully engage in oversight
  ➢ A lack of clear command and control enables senior officers to engage in corruption

The justice system
  ➢ Access to justice is very poor; the system is unable to deliver day-to-day rule of law for the population, let alone tackle serious crimes and abuses during the wars, including rape and sexual violence
  ➢ The judiciary is not independent and there is frequent political interference with judicial processes
  ➢ The penitentiary system is almost completely dysfunctional

Vinck, P. and Pham, P., 2008, 'Ownership and Participation in Transitional Justice Mechanisms: A Sustainable Human Development Perspective from Eastern DRC', International Journal of Transitional Justice, vol. 2, no. 3, pp. 398-411
http://ijtj.oxfordjournals.org/content/2/3/398.abstract

This paper is based on a survey of 2,620 adult residents in eastern DRC. It finds that respondents' basic priorities are identifying means for survival and safety. High levels of fear were prevalent among respondents in daily life situations such as going to their fields, walking through their villages or meeting strangers. As long as such basic survival needs are not met and safety is not guaranteed, social reconstruction programmes, including transitional justice mechanisms, will not be seen as a priority and will not draw the level of support required for their success. In addition, without security, respondents do not feel comfortable talking openly about what happened to them, which also hinders the functioning of transitional justice mechanisms.

Although justice, truth seeking and prosecutions were not often listed as priorities', most respondents still believed that those who committed war crimes should be held accountable and that holding them accountable was necessary for peace. The paper argues that the government also needs to be strengthened and legitimised to bring peace and security. This requires reform of the security sector, rapid implementation of peace agreements, and effective payment of salaries to solders and mechanisms to prevent corruption.

5.	Natural resource governance

Guenther, B., 2008, 'The Asian drivers and the Resource Curse in Sub-Saharan Africa: the Potential Impacts of Rising Commodity Prices for Conflict and Governance in the DRC', The European Journal of Development Research, vol. 20, no. 2, pp. 347-363
http://www.informaworld.com/smpp/title~content=t713635016

This paper includes a section on the impact that China and India are having on the demand for natural resources in Sub-Saharan Africa generally and in the DRC specifically. It argues that the shift in global terms of trade in favour of hard commodities due to the rise in demand will present significant challenges for governance and peacebuilding in the DRC. State and non-state actors will compete to gain control over natural resource rents. While measures in the mining code could improve transparency in the DRC's mining sector and improve governance, the reality on the ground undermines this. The institutional preconditions currently do not exist, such as administrative structures, well-trained (and well-paid) staff, and inter-governmental/ institutional cooperation.

The World Bank, 2008, 'Democratic Republic of Congo: Growth with Governance in the Mining Sector', Oil/Gas, Mining and Chemicals Department, Africa Region, The World Bank
http://siteresources.worldbank.org/INTOGMC/Resources/336099-1156955107170/drcgrowthgovernanceenglish.pdf

This report outlines the problems and challenges of resource management in the DRC. It attributes the failure of the country to harness its mineral wealth for economic development primarily to corrupt management and political interference in mining companies; and inappropriate policies that limit private sector investment. Despite the adoption of a new Mine Law and regulations (2002), which are consistent with international best practice, the government has failed to effectively apply the law. The growth of the sector continues to be undermined by insufficient institutional capacity, continuing political instability, corruption and fundamental governance deficiencies. 'Significant capacity building, training and logistical support will be required to strengthen the government's capacity to administer the sector' (p. 6). Improvements in governance are required in the following areas:

➢ Mining tax revenue generation: fraudulent practices by companies and government agencies have created a large gap between what should be paid versus what is actually recorded

- ➢ Disclosure: there is a need for proper disclosure of mining contracts, with the particulars of the partners involved; and of conflict of interest issues with civil servants and political officials owning stock in mining companies or serving as officers of them
- ➢ Guidelines: clear guidelines for government equity participation in mining enterprises is required
- ➢ Tracing systems: initiatives to trace mineral commodities, with a view to curtailing clandestine exports and certifying production methods, need to be strengthened
- ➢ Oversight: central government institutions responsible for oversight of the sector are weak and ineffective

Some recent developments include the current government's reaffirmation of its commitment to implement the Extractive Industries Transparency Initiative (EITI). It has taken steps to update the organisational structure of the EITI implementation committee and to reactivate dialogue with private companies and civil society. In addition, in 2008, the government signed a series of agreements with a group of Chinese enterprises for investments in infrastructure in return for access to mineral deposits. While there is potential for these agreements to benefit the sector, there are some concerns that full disclosure of the terms and conditions of the arrangements have been inadequate; and that there is the possibility of tax exemptions and other incentives that are contrary to the Mine Law.

The report proposes a strategic and comprehensive programme to be carried out over the next five years to address key deficiencies in the large and small-scale mining sector such that it can contribute to economic development. Specific objectives and goals of the programme include:

- ➢ Improving mining fiscal receipts in the short term
- ➢ Improving the enabling environment
- ➢ Improving sector governance, including through due diligence and transparency of contracts; disclosure of revenue flows; and fair distribution of benefits
- ➢ Building the capacity of supervisory institutions, including to provide oversight of the sector; deliver technical assistance; conduct health and safety checks at sites; and conduct economic and financial analyses of projects

Trefon, T., 2010, 'Forest Governance in Congo: Corruption Rules?' U4 Brief, no. 5 (2nd ed), U4 Anti-Corruption Resource Centre, Bergen
http://www.cmi.no/publications/file/3776-forest-governance-in-congo-corruption-rules.pdf

This brief argues that forestry, like mining, is a high-stakes business that attracts unscrupulous actors and corrupt officials, who constantly change the rule of the game. Corruption and mismanagement have contributed to poor results in the forestry sector. Environmental governance thus cannot be seen solely as a technical issue in the DRC as it is also a political and social challenge.

Tackling poor governance and institutionalised corruption at all levels of society in the DRC is considered by many to be key priorities on the reform agenda. However, 'impunity continues to facilitate the mechanisms of corruption and severely undermines all other reform efforts. Reform policies tend to respond to symptoms without addressing the root causes of problems such as historical patterns of poor governance, social fragmentation, institutional weakness and diverging perceptions of the need for change' (p. 2). The brief stresses that reform implementation has also not materialised largely due to the lack of a reliable administrative structure. Corruption, exploitation and predation are prevalent in the state administration in the DRC; and public service provision has been 'privatised'. In addition, civil society is not a genuine political force. It needs to be strengthened before it can play a meaningful role in improving political transparency and countering corruption.

The brief outlines some initiatives aimed at improving forest governance. This includes the Congo Basin Forest Partnership, a voluntary multi-stakeholder initiative, whose objective is to promote the conservation and sustainable management of the Congo Basin's forest ecosystems. There is also a new legal framework for forests (the 2002 forest code and 2005 presidential decree), which aims to promote public consultation and to narrow the gap between customary and modern law. At the same time,

however, it reinforces certain social imbalances; and has yet to resolve issues of land tenure. Problems with fiscal revenues from forestry activity also persist; such revenues have not accrued to communities as loggers pay their taxes to central government without any transparency or accountability.

Prerequisites for improving forest governance include (see p. 4):

➢ Environmental education and awareness campaigns about rights and responsibilities to help local populations bargain into forest governance strategies;
➢ The creation of enabling conditions to attract responsible private sector partners
➢ Greater integration of respect for local logics and belief systems
➢ Increased and more systematic capacity-building and training for all stakeholders involved in forest governance

See also:

Wan, K., 2009, 'Global Sustainable Development "From Above" and Local Injustice "Below": The Governance Challenge Facing the Congo Basin Rainforest', Law, Social Justice and Global Development Journal, vol. 1
http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/2009_1/wan/wan.pdf

Mazalto, M., 2009, 'Governance, Human Rights and Mining in the Democratic Republic of Congo', in Mining in Africa, ed. B. Cambell, Pluto Press, pp. 187-242
http://www.idrc.ca/openebooks/450-5/#page_187

6.	Livelihoods and business environment

Lecoutere, E., Vlassenroot, K., and Raeymaekers, T., 2009, 'Conflict, Institutional Changes and Food Insecurity in Eastern D.R. Congo', Afrika Focus, vol. 22, no. 2, pp. 41-63
http://www.gap.ugent.be/africafocus/pdf/3Vol22_2_Lecoutere.pdf

Recent literature on the political economy of civil war has highlighted the complex interaction of food insecurity and conflict. In order to properly study rural households' livelihoods and food insecurity in the protracted crisis situation of eastern DRC, a political economy approach is required. This would look at: the institutional context regulating access to land and to markets; information about prevailing norms and regulations; the 'rules of the game' for accessing land and markets; and the respective gatekeepers. This study which gathered data on these aspects found that 'the worsening of the food security conditions in eastern DRC has been caused in part by distortions in the processes, institutions and policies of defining people's access to assets and strategies that regulate their access to food' (p. 50). Important mediating structures that determine households' livelihood opportunities and food security are access to land and the market.

Most international interventions in eastern DRC address the direct food security needs of the rural population through food aid, support of nutrition centres and the distribution of seeds and tools. Such interventions are unlikely to influence, however, more structural causes, such as depleted asset stocks and the need for risk coping and management strategies as substitutes for insurance and credit. The paper recommends that in addition to support for short-term consumption, assistance should also be given to help rebuild assets to generate income. Institutional settings play an important role here as this mediates access to assets and markets and defines opportunities to translate strategies into sustainable livelihoods.

Gilpin, R. and Downie, R., 2009, 'Conflict-Business Dynamics in the Democratic Republic of Congo, Special Report, no. 234, United States Institute of Peace, Washington, DC
http://www.usip.org/files/resources/confict_business_drc_sr234.pdf

Research suggests that a strong business sector can contribute to rebuilding post-war economies and give citizens a stake in promoting and consolidating peace. This report is based on a survey of business people in two of the DRC's strategically important regions – Bukavu in the east and Lubumbashi in the south – in order to determine what can be done to improve the business climate. While business people cited security and violent conflict as factors undermining economic activity, these were not seen as the most important issues. Instead, problems of unreliable electricity supply, high taxes, and other bureaucratic and logistical hurdles are considered as the key challenges. In both Bukavu and Lubumbashi, tackling the inadequate infrastructure should be a priority, particularly to ensure that businesses have a reliable power supply. It is also important to address the problem of high taxes. In Lubumbashi, the problem is more likely to be one of corruption; whereas in Bukavu, the issue is intertwined with the security situation and likely relates to unofficial taxes levied by armed groups and corrupt officials. In both cities, business people had high levels of confidence for the coming year; the majority believed that the general business climate would improve.

7.	Citizenship and social capital

Jackson, S., 2007, 'Of "Doubtful Nationality": Political Manipulation of Citizenship in the D. R. Congo', Citizenship Studies, vol. 11, no. 5, pp. 481-500
http://www.informaworld.com/smpp/content~content=a782792571~db=all

This paper discusses the denial of nationality and of citizenship rights in the DRC to people of Rwandan/Burundese heritage – members of the Hutu and Tutsi ethnic groups. Although a new law on nationality was adopted in 2004 that provides for nationality by origin and by acquisition, there are various aspects that leave the problem unaddressed:

- The law allows for loopholes and continuing possibilities of legal exclusion. For example Article 22, which sets out conditions through which 'nationality by acquisition' is excluded, includes having 'delivered oneself to the profit of a foreign state' or 'economic crimes'. Both of these charges are common accusations against members of the Hutu and Tutsi ethnic groups during the RCD (Rassemblement Congolais pour la Democratie) war
- The law leaves much open and uncertain, which allows for ambiguous interpretation
- The law is poorly implemented. Weak state apparatus has meant that 'rule of law' has not been applied consistently at the local level despite the Constitution and law in the books
- Gaining Congolese nationality will be of little utility to a peasant if it does not come with an enforceable and long-term right to land
- It is important to move beyond legal reforms to try to reverse deeply held political narratives of belonging and exclusion, indigenousness and foreignness, which remains a potent area for political manipulation

Rubbers, B., 2009, '"We, the Congolese, We Cannot Trust Each Other". Trust, Norms and Relations among Traders in Katanga, Democratic Republic of Congo', The British Journal of Sociology, vol. 60, no. 3, pp. 623-642
http://onlinelibrary.wiley.com/doi/10.1111/j.1468-4446.2009.01261.x/full

Personal trust is considered to be very important for trade and business transactions in contexts in which legal rules and institutions are ineffective in controlling opportunistic behaviour and economic flows are unpredictable. This paper argues that in the DRC, social proximity does not exclude suspicion; nor does social distance necessarily prevent trust. It presents a study carried out in Katanga. Patrimonialism, political conflicts and economic instability in the region has prevented an institutional system that would provide conditions of predictability and security that would allow Congolese people to trust each other.

Instead, the decline of economic, political and social infrastructure has resulted in distrust. The study finds that expectations of trust are most strong with close relatives, then non-relatives, and lastly, distant relatives/kin groups. Congolese entrepreneurs prefer to go into partnership with close family – trust here is seen as natural. They may however collaborate with non-relatives in order to enter the market and seize an opportunity. Such associations with colleagues, with neighbours, with people from the same organisation (church, sports team, ethnic association etc.) rely less on social ties than on complementarity of resources brought by each partner in the joint venture. Distant relatives/kin groups are not considered good to do business with as the division of property is not clearly defined with the kin group as it is with non-relatives. With kin groups, members tend to take the firm's funds and supplies as goods belonging to the whole family. In addition 'loans' are often perceived instead as 'gifts' or 'help'. As such, it is easier to build a more balanced form of reciprocity with non-relatives than distant relatives.

8.   Additional information

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Selected websites visited
African Transitional Justice Research Network, Clingendael (Netherlands Institute for International Relations), Crisis States Research Centre, FRIDE, Google, Google Scholar, Human Rights Watch, International Development Resource Centre, Informaworld, International Alert, International Crisis Group, Initiative for Peacebuilding, OECD, United States Institute for Peace, U4